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In re JONES ET AL.

with the reference character "28". No new matter has been added.

REMARKS

The Examiner is thanked for the Official Action dated December 20, 2000. This amendment and request for reconsideration is intended to be fully responsive thereto.

The drawings were objected to because the reference character "16" has been used to designate both the actuating shaft and the pivot pin in figure 1. Drawing fig. 1 has been corrected in red ink to indicate that the pivot pin is designated with the reference character "28".

Claims 1-8 were rejected under 35 USC §103(a) as being unpatentable over Dozier in view of Williams. Applicant respectfully disagrees.

Dozier discloses the brake spider 12 welded to the axle 18. However, Dozier fails to disclose the pneumatic brake actuator directly mounted to the brake spider. Moreover, Dozier neither suggests, nor provides any motivation to directly mount the brake actuator to the brake spider 12.

Williams discloses a brake assembly including the pneumatic brake actuator mounted to the back plate, not to the brake

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spider.

The Examiner notes that it would have been obvious to one of ordinary skill in the art to have provided Dozier's brake assembly with the brake actuating assembly as taught by Williams. However, the Examiner fails to cite any prior reference that would disclose an axle beam and drum brake assembly that comprises a brake spider secured to an axle beam, and a pneumatic brake actuator directly mounted to the brake spider that allows to assemble the brake assembly as a module and use the same brake assembly for numerous variations of axle beams and suspension arrangements.

To establish *prima facie* obviousness of a claimed invention, all the claim limitation must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974) (MPER 2143.03). Clearly, prior art references cited by the Examiner lack any motivation or suggestion to directly mount the pneumatic brake actuator to the brake spider, which is in turn directly secured to the axle beam.

Moreover, the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination.

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In re Mills, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990) (MPER 2143.01). The prior art references cited by the Examiner fail to suggest the desirability of directly mounting the pneumatic brake actuator to the brake spider.

Therefore, the Examiner's conclusion that directly mounting the pneumatic brake actuator to the brake spider, which is in turn directly secured to the axle beam, is obvious *per se* is improper.

Also, The Examiner notes that Dozier shows in Fig. 1 a one-piece axle spindle and brake spider assembly. The applicant respectfully disagrees.

As clearly shown in Fig. 1, the brake spider 12 and the axle 18 are two distinctively separate parts (please note different hatching of the brake spider 12 and the axle 18). This assumption is supported by the specification that discloses in column 2, lines 55-60 that the brake spider 12 is welded to the axle 18. Thus, the Examiner's position is erroneous.

Therefore, we believe that claims 1-8 define the invention over the prior art of record, and are in condition for allowance, and notice to that effect is earnestly solicited.

Should the Examiner believe further discussion regarding the

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above claim language would expedite prosecution they are invited
to contact the undersigned at the number listed below.

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MAR 26 2001
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